

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

SANDRA KELLEY, Personal  
Representative of the Estate of  
LARRY McKINNEY, CHANCE McKINNEY,  
STORMY McKINNEY, STEVIE McKINNEY,

3:12-CV-01647-ST

ORDER

Plaintiffs,

v.

MICHAEL MORTON, JOE KAISER, THE  
CITY OF FAIRVIEW, by and through  
the Fairview Police Department,

Defendants.

BROWN, Judge.

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#61) on August 28, 2014, in which she recommends this Court grant in part and deny in part the Motion (#34) for Partial Summary Judgment filed by Defendants Michael Morton and

the City of Fairview. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. See *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*). Having reviewed the legal principles *de novo*, the Court does not find any error.

#### CONCLUSION

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#61). Accordingly, the Court **GRANTS in part** and **DENIES in part** Defendants' Motion (#34) for Partial Summary Judgment as follows:

1. The Court **GRANTS** Defendants' Motion for Summary Judgment as to Plaintiffs' First Claim against Morton in its entirety.
2. The Court **GRANTS** Defendants' Motion for Summary Judgment as to Plaintiffs' Second Claim against Morton premised on a violation of the Fourteenth Amendment.
3. The Court **GRANTS** Defendants' Motion for Summary Judgment as to Plaintiffs' Fifth Claim against the City

of Fairview.

4. The Court **DENIES** the remainder of Defendants' Motion for Summary Judgment.

IT IS SO ORDERED.

DATED this 17th day of September, 2014.

/s/ Anna J. Brown

---

ANNA J. BROWN  
United States District Judge